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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

In re L.H.,
a Person Coming Under the Juvenile Court Law.

B211058
(Los Angeles County
Super. Ct. No. CK67152)

J.L.,

Petitioner,

v.

THE SUPERIOR COURT OF
LOS ANGELES COUNTY,

Respondent;

LOS ANGELES COUNTY DEPARTMENT
OF CHILDREN AND FAMILY SERVICES,

Real Party in Interest.

ORIGINAL PROCEEDINGS in mandate. Elizabeth Kim, Referee. Petition denied.

J.L., in pro. per., for Petitioner.

No appearance for Respondent.

Raymond G. Fortner, Jr., County Counsel, James M. Owens, Assistant County Counsel, and Kirstin J. Andreasen, Senior Associate County Counsel, for Real Party in Interest.

Mother J.L. (mother) seeks review of a juvenile court order setting a hearing under Welfare and Institutions Code¹ section 366.26 related to her son, L.H. We summarily deny the petition for failure to comply with California Rules of Court, rule 8.452 (rule 8.452).

BACKGROUND

L.H. first came to the attention of the Department of Children and Family Services (the Department) in February 2007, when he was a few weeks old. The Department had received a referral alleging substantial risk of general neglect based upon allegations of drug use by his parents, mother's bipolar condition, and domestic violence between the parents. The Department had difficulty making contact with the family, but was finally able to arrange a meeting with mother and father (R.H.) a week later. At that meeting, mother admitted that she was bipolar, but was not on medication because she was breast-feeding her son. She also admitted that she had been arrested in January 2007, but was vague as to the reason for the arrest.²

L.H. remained in his parents' care, and the Department planned to have another meeting with the parents sometime in the near future. Before that meeting took place, however, the Department was notified that the parents had been arrested for domestic violence, and father was also charged with child

¹ Further undesignated statutory references are to the Welfare and Institutions Code.

² Later, the Department ascertained that mother had been arrested for assault after a domestic violence incident in which she hit and bit father.

endangerment. The incident involved a fight during which mother and father had a physical altercation while father was holding L.H. L.H. was detained and placed in foster care.

The juvenile court sustained a section 300 petition that alleged that mother and father engaged in a violent altercation while father held L.H. in his arms, that father placed L.H. in an endangering situation by fighting with mother while holding him, and that mother has a history of chronic mental illness and has demonstrated numerous mental and emotional problems, and is noncompliant with her psychotropic medications and treatment plan. Mother³ was ordered to attend parent education and individual counseling to address case issues and specifically domestic violence. A psychiatric/medication evaluation also was ordered, and mother was ordered to take all prescribed psychotropic medication. Mother was granted monitored visitation.

Mother's compliance with her case plan was inconsistent over the next 18 months. With regard to visitation, although she consistently visited with L.H. during that time (for the most part), her behavior during the visits was very inconsistent. At times, she behaved appropriately, but at other times, she engaged in strange, and sometimes aggressive, behavior. There also was a report that mother and father continued to fight and engage in domestic violence outside of L.H.'s presence.

After hearing testimony from mother, father, the social worker, and mother's therapist at the permanency review hearing (§ 366.22), the juvenile court found that mother had not benefitted from the services that were provided, terminated

³ Because father is not a party to the instant petition, we limit our factual summary to facts related to mother.

family reunification services, and set a section 366.26 hearing to select a permanent plan.⁴

Mother filed a notice of intent to file a writ petition. The record was prepared, and on October 16, 2008, notice was sent to mother and to her counsel that the record had been filed and that the writ petition must be filed by October 27, 2008. On October 22, 2008, mother's attorney sent a letter under *Glen C. v. Superior Court* (2000) 78 Cal.App.4th 570, stating that he could not file a petition on mother's behalf. Mother filed a petition for extraordinary writ on October 27, 2008. We issued an order to show cause, and the Department (the real party in interest) filed an answer to the petition and a motion to dismiss mother's petition.

DISCUSSION

The Department asks us to dismiss mother's petition for failure to comply with rule 8.452, which governs writ petitions seeking review of orders setting hearings under section 366.26. Rule 8.452 requires that the petition include a summary of the grounds of the petition and be accompanied by a memorandum that (1) provides a summary of the significant facts (limited to matters in the record); (2) states each point under a separate heading, supported by argument and citation to authority; and (3) supports any reference to a matter in the record with a citation to the record, with an explanation of the significance of that portion of the record and a reference to any disputed aspects of the record. (Cal. Rules of Court, rule 8.452(a)(1)(D), (a)(3), (b).) Although rule 8.452(a)(2) provides that the

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As the Department acknowledges in its answer to mother's writ petition, there is an inconsistency between the findings set forth in the minute order for the permanency review hearing and the reporter's transcript for that hearing. Although the minute order states, "The court finds that the parent(s) have not consistently and regularly contacted and visited with the child," the reporter's transcript contains no such finding, and the Department concedes that "visitation was generally consistent."

petition must be liberally construed (Cal. Rules of Court, rule 8.452(a)(2)), the memorandum “must, at a minimum, adequately inform the court of the issues presented, point out the factual support for them in the record, and offer argument and authorities that will assist the court in resolving the contested issues.” (*Glen C. v. Superior Court, supra*, 78 Cal.App.4th at p. 583.) Mother’s petition does not meet even these minimal requirements.

Mother’s petition was written on a form approved by the Judicial Council. It states that mother is seeking relief from the September 22, 2008 order setting a hearing under section 366.26. In the space provided to state the grounds on which mother asserts the order was erroneous, mother wrote: “My continued progress and new address demonstrate my capacity for both completing the objectives of my treatment plan and providing safety & protection of [L.H.]” She checked the box stating, “Because of exigent circumstances, supporting documents are not attached,” explaining that she received the court’s notice setting the date for filing the petition two days before the deadline due to her move to Oregon and the delay in mail forwarding.⁵

The Judicial Council form also provides a space for a summary of the factual basis for the petition, and instructs the petitioner to “reference each specific portion of the record, its significance to the grounds alleged, and disputed aspects of the record.” (Italics omitted.) Mother wrote: “The court found that visitation & contact w/[L.H.] was not consistent. However attendance to visits were previously recorded as good. The court also found that I did not complete the objectives of

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We note that when mother filed her notice of intent to file a writ petition on September 26, 2008, the notice listed her address as the California address on file with the juvenile court in this case. The notice, which was prepared on a Judicial Council form, included instructions that informed her that she would have only 10 days after the record was filed in the Court of Appeal to file and serve her petition. Despite this short time frame, mother did not provide this court with a notice of her change of address to ensure that she timely received notification of the filing of the record.

my treatment plan, however my counselor disagrees as well as other witnesses.” There were no citations to the record. The form also states, “Points and authorities in support of the petition are attached” and includes a space to indicate the number of pages that are attached. There is no number indicated, and no points and authorities are attached. Finally, mother checked the box indicating that she requests a temporary stay pending the granting or denial of the petition, but fails to complete the rest of that portion of the form, which requires the petition to specify the hearing date and reasons for the stay.

We note that rule 8.452(i)(1) provides that “[a]bsent exceptional circumstances, the reviewing court must decide the petition on the merits by written opinion.” But mother’s virtually complete failure to comply with rule 8.452 constitutes exceptional circumstances excusing us from deciding the petition on the merits. (*Joyce G. v. Superior Court* (1995) 38 Cal.App.4th 1501, 1512 [failure to tender and substantively address specific material issues constitutes exceptional circumstances excusing review and determination on the merits].) Therefore, we summarily deny the petition.

DISPOSITION

The petition is denied.

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WILLHITE, Acting P. J.

We concur:

MANELLA, J.

SUZUKAWA, J.